7. Comparison of Policy Options

The final step in the analysis is to identify and compare policy options for addressing the gaps in law and practice described in the previous chapter. In consultation with the Oversight Committee, WSDOT staff developed a list of potential policy options, defined pros and cons for each policy option, and applied criteria based on the analysis objectives.

Policy Options

The following menu of policy options address the analysis findings. Any policy option can be pursued singly or grouped with others to form a more comprehensive strategy for addressing the planning, funding and governance gaps existing in current law and practice. The policies identified include (not in priority order):

Planning

A. **Technical Assistance.** Increase technical assistance to cities and counties.

B. **WSDOT Review of Local Comprehensive Plans.** Increase WSDOT participation in local land use planning and processes.

Governance

C. **Local Incentives.** Provide incentives for local governments to adhere to best practices in planning, mitigation and access control.

D. **Mandatory Good Planning Practices.** Require local governments to adhere to best practices in planning and access control.

E. **Concurrency Expansion to State Highways and Ferry Routes.** Expand the GMA concurrency requirement to state highways and ferry routes.

Funding

F. **WSDOT Review of Development Proposals.** Improve WSDOT development review process.

G. **Mandatory Local Enforcement of State-Requested Mitigation.** Require local governments to condition development approvals on WSDOT mitigation requests.

H. **Mandatory Local Assessment of State Impact Fees.** Require local governments to assess impact fees for improvements to state-owned highways and ferry routes.

I. **State Assesses and Collects Mitigation.** Authorize WSDOT to independently assess and collect mitigation directly from the developer.

J. **System Charges.** Allow the state or regions to establish and collect regional system charges directly from the developer.

Concurrency Analysis Objective

The objective of the analysis is to determine how to ensure that jurisdictional divisions do not defeat the growth management act concurrency goals. [SSB 6241 Sec. 224]

GMA Concurrency Goal

Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing service levels below locally established minimum standards. [RCW 36.70A.020(12)]

Concurrency Objectives

- Encourage land use patterns that allow infrastructure to be provided in an efficient manner
- Prevent new development from degrading service standards for existing residents
- Provide appropriate infrastructure at the time of new development

Policy Comparison Criteria

1. To what extent will the policy concept meet the concurrency objectives?
   - More transportation efficient land use
   - Prevention of the degradation of state highway capacity and safety
   - Better provision of infrastructure through more effective state transportation funding
2. To what extent will the policy:
   - Increase intergovernmental collaboration?
   - Generate immediate results?
   - Proactively address land use impacts early in the process?
3. What is the governance structure of the policy? How does it balance the political trade-offs between:
   - State control versus local autonomy?
   - Statewide consistency and predictability versus local flexibility

Policy Comparison Approach

The criteria developed to compare the policy options are based on the objective of the analysis—to determine how to ensure that jurisdictional divisions do not defeat the Growth Management Act (GMA) concurrency goals. The goal of concurrency can be broken down into three primary objectives: encouraging land use patterns that allow infrastructure to be provided efficiently, preventing new development from degrading service standards for existing residents, and providing appropriate infrastructure at the time of new development.

The extent to which each policy option meets these three concurrency objectives forms the first criterion. The ability of each policy concept to increase intergovernmental collaboration, generate immediate results, and proactively address land use impacts provides additional bases for comparison. The last criterion addresses the governance structure of the policy options. The current planning approach of the GMA is a "bottom up" style with local jurisdictions bearing the ultimate responsibility for land use planning and implementation. Some of the policy options identified would modify this approach, trading some degree of local autonomy and flexibility for greater state consistency and control.

The first two criteria were evaluated using a sliding scale that reflects the relative effectiveness of a policy compared to the other policy concepts within the analysis. The sliding scales only have meaning within the context of this analysis. For example, a policy option providing for more effective state transportation system funding to a "maximum" extent means it is the most likely to provide effective state transportation system funding compared to the other nine policy options being considered. It is <u>not</u> the best solution for providing effective state transportation system funding in the broader realm of all possible funding options (e.g. gas taxes, tolls, etc.). The third criterion was evaluated based on a sliding scale reflecting the policy's governance approach on a continuum between state control and consistency versus local autonomy and flexibility.

It is important to note the relative importance of the criteria is not reflected by the sliding scales. In other words, you can't sum the ratings to pick the best policy. Also, the sliding scale ratings are subjective based on the best judgment of the analysis team.

In addition to the application of the criteria, the policy options are compared based on a description of their pros and cons and their relative resource requirements.

Planning Policy Options

The analysis found state, regional, and local planning processes for state transportation facilities often lack the government-to-government communication, data-sharing, and transportation modeling coordination needed to make the existing GMA planning requirements meaningful. Similarly, the coordination and education required to ensure adequate access control does not consistently occur. Limited staff resources at the local, regional, and state levels have contributed to these shortfalls.

The state could do a better job of facilitating and participating in local governments' land use planning and access control processes. State and local governments could also work together to better:

- Monitor the impacts of development on state highways and ferry routes,
- Incorporate state highway and ferry data in local traffic modeling and decisions,
- Coordinate transportation planning,
- Design policies and regulations that minimize the adverse impacts of growth on state transportation facilities and investments (e.g. the development of adequate local street networks),
- Ensure that local access controls meet or exceed WSDOT standards, and
- Take advantage of local funding opportunities for state transportation system improvements needed as a result of development.

The two policy options for improving planning are providing better technical assistance and providing better state review of local comprehensive plans and development regulations, particularly by WSDOT.

Planning: Technical Assistance

The state could provide technical assistance to local governments directly through WSDOT or the Washington State Department of Community, Trade and Economic Development (CTED) or indirectly through Regional Transportation Planning Organizations (RTPOs). Technical assistance could involve updating guidance documents and administrative rules, providing data and individually targeted advice and technical modeling assistance, and/or offering educational programs for groups of local governments. Before implementing a technical assistance program, the state needs to define what best practices are for planning for and controlling access to state transportation facilities. The state must also examine its own planning, access control, data collection, and traffic modeling processes to facilitate better intergovernmental collaboration. The substance of the guidance is key to its effectiveness—guidance should be consistent and sensitive to the local process and regional considerations.

Providing better technical assistance devotes more resources to doing a better job of implementing the existing GMA framework. It also addresses the desire expressed by some local governments' for greater clarity regarding how to address regionally significant state-owned highways in their transportation planning.[1] Technical assistance is relatively inexpensive compared to other policy concepts. For example, the cost of a guidebook could range from $50,000 to $150,000

1. Assessing the Effectiveness of Concurrency: Final Report, Puget Sound Regional Council, (July 2003), 12-13.

depending on the level of research and outreach required, and workshops cost approximately $3,000 each. For WSDOT to provide a level of staffing for technical assistance approximately equivalent to CTED's would require two additional FTEs costing approximately $234,000 (FY 08).

The primary disadvantage of increased technical assistance is that it does not address those jurisdictions that choose not to work collaboratively with the state to minimize their impact on state transportation facilities. Additionally, immediate results are unlikely because major comprehensive plan updates are only required every seven years under the GMA.

TECHNICAL ASSISTANCE

Who: CTED, WSDOT and/or RTPOs

What: Increase technical assistance to cities and counties

Why: To provide local governments with the information and resources they need to make land use decisions that minimize adverse impacts on state highways and ferry routes

How:
- Develop updated guidance documents and administrative rules for local planning, access control, and development review for state highways and ferry routes
- Devote additional staffing to provide individual and timely expert advice and analysis assistance to local governments
- Periodically offer workshops across the state on best practice planning, access control and development review for state highways and ferry routes

Pros:
- Relatively inexpensive
- Local governments are seeking information, guidance and modeling assistance
- Builds on existing GMA framework

Cons:
- Results not immediate due to seven-year comprehensive plan update cycles
- Local governments may disregard assistance
- Ensuring consistent guidance that is also sensitive to regional considerations is challenging

To what extent will the policy:

- Result in more transportation efficient land use?
- Prevent the degradation of state highway capacity and safety?
- Provide for more effective state transportation funding?
- Increase intergovernmental collaboration?
- Generate immediate results?
- Proactively address land use impacts early in the process?

How does the policy balance the trade-offs between:

Planning: WSDOT Review of Local Comprehensive Plans

The purpose of increasing WSDOT's participation in the local land use process is to more effectively communicate the state's interest in protecting the capacity and safety of the state highway and ferry system. At a minimum, this would ensure local planners, elected officials and the public are aware of how their land use choices impact state transportation facilities. Ideally, local awareness would result in decisions minimizing adverse impacts on the state transportation system. Additionally, participating in the land use process gives WSDOT standing to ap-

peal a local decision if all other avenues are exhausted and the state's interests are seriously compromised by the decision.

Improving WSDOT's review of local comprehensive plans builds on existing GMA planning approaches by devoting additional resources to reviewing and commenting on local comprehensive plans and development regulations and developing collaborative relationships with local planners and elected officials. To support this work, an internal policy manual should be developed and adhered to so WSDOT can consistently review and comment on local comprehensive plans and development regulations. Effective plan review would also involve the establishment of tracking systems to ensure timely and consistent comments as well as appropriate state responses to local government land use actions.

This policy option is more effective than technical assistance alone because comments would be tailored to a particular legislative proposal. Additionally,

WSDOT REVIEW OF LOCAL COMPREHENSIVE PLANS

Who: WSDOT

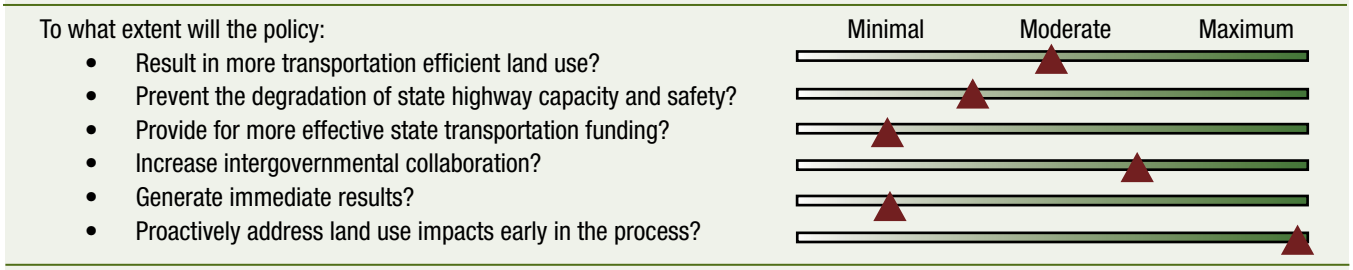
What: Increase WSDOT participation in local land use processes

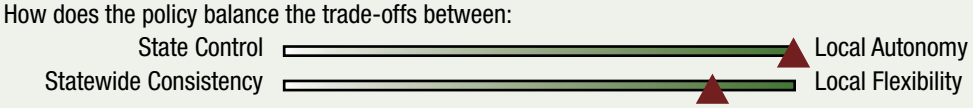
Why: To more effectively communicate the state's interest in protecting the capacity and safety of the highway and ferry systems so that local governments and the public are aware of the consequences of their decisions and so that the state is on record if an appeal is appropriate

How:
- Devote additional staffing to comprehensive plan and development regulation review and comment
- Develop systematic policies and procedures for reviewing, commenting on, and tracking local comprehensive plans and development regulations and incorporating information from local plans into the state's transportation planning process
- Develop productive and collaborative relationships with local planners and elected officials
- More consistently track, report, and follow-up on local government responses to comments
- Coordinate state corridor planning with local subarea planning

Pros:
- Relatively inexpensive
- Builds on existing GMA framework
- More effective than technical assistance alone because comments address specific local proposals and receive wider exposure through the public involvement process
- Sets the stage for state appeals of local government decisions when needed

Cons:
- Results not immediate due to seven-year comprehensive plan update cycles
- Local governments may disregard comments
- May lead to more state appeals of local government decisions





the state's interests would receive wider public exposure through the local public involvement process. Like technical assistance, increased state participation in the local land use process is likely to be relatively inexpensive compared to other policy concepts. For example, for WSDOT to provide a level of staffing for comprehensive plan and development regulation review approximately equivalent to CTED's would require 3.5 additional FTEs costing approximately $409,500 (FY 08).

Governance Policy Options

The existing governance structure for planning and funding state highways and ferry routes limits the ability of the state to protect the capacity and safety of its transportation system. The governance structure favors local discretion over state control, resulting in an advisory-only role for the state. The appeal process is the state's only recourse if a local government makes a choice harming the state's interests and violating the Growth Management Act. Appeals are used infrequently because of their political and financial cost.

Three policy options examined in this analysis suggest possible changes to the governance structure that would provide the state with more influence over local land use decisions that impact the state transportation system. These options range from incentive-based to regulatory in nature.

Governance: Local Incentives

Local governments can secure state funding for transportation planning and infrastructure through a variety of sources including legislative earmarks, WSDOT, CTED, the Community Economic Revitalization Board (CERB), the County Road Administration Board (CRAB), the Transportation Improvement Board (TIB), the Public Works Board (PWB), and the Freight Mobility Strategic Investment Board (FMSIB). These funding sources independently implement their particular legislative mandates with little coordination. Local governments could be encouraged to make land use choices that protect the capacity and safety of the state highway and ferry systems by coordinating these funding programs to give higher priority to local governments who adhere to best practices in planning for, mitigating impacts to, and controlling access to the state transportation system.

In addition to using existing state infrastructure funds as incentives, the GMA could be amended to allow cities and counties to adopt limited concurrency exemptions (e.g. for infill) if they meet pre-defined performance standards for planning for, mitigating impacts to, and controlling access to state highways and ferry routes. If a community adheres to such standards, exempting infill from concurrency requirements might encourage denser urban development and discourage sprawl as well as rewarding local governments who adhere to best practices.

Local governments find incentive-based approaches more acceptable than regulatory models. Incentives could also be the first step in an incremental approach to implementing mandatory planning, mitigation or access control requirements. Best practices developed as standards for grant programs or concurrency exemption allowances could be tested for effectiveness for the cities choosing to participate in the incentive program. Once tested, the state could implement effective planning tools through a more regulatory approach.

The effectiveness of the financial incentive portion of this policy option is limited since the vast majority of resources for state transportation system improvements

have already been determined for the next 16 years through funding packages approved by the legislature. Another disadvantage of this policy concept is reprioritization of funds might result in the reduction of resources available to implement other state goals.

In order for this policy option to be effectively implemented, the state should convene local, regional, and state agency stakeholders to craft a set of well-researched, professionally sound, and locally acceptable best practice standards. This process could take up to one year and involve costs ranging from $100,000 to $150,000. Additionally, state agencies could incur additional costs for implementing changes to their funding programs or addressing concurrency exemptions in their GMA technical assistance programs.

LOCAL INCENTIVES

Who: Legislature, WSDOT, CTED, RTPOs, CERB, CRAB, TIB, PWB, FMSIB

What: Provide incentives for local governments to adhere to best practices in planning, impact mitigation, and access control

Why: To encourage local governments to make land use choices that will protect the capacity and safety of the state highway and ferry systems

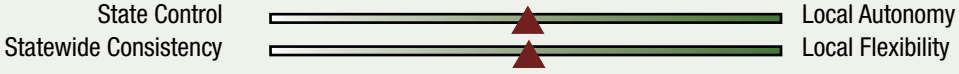
How:
- Allow local governments who have adopted best practices to permit limited concurrency exemptions for urban infill
- Better coordinate state infrastructure funding programs to give higher priority to local governments that adhere to best practices

Pros:
- Limited infill concurrency exemptions may encourage denser urban development and discourage sprawl as well as reward local governments that adhere to best practices
- Local governments are more likely to adhere to best practices if incentives are provided
- Builds on existing planning and mitigation frameworks

Cons:
- Most state transportation funding has been determined for the next 16 years, minimizing the source and size of available financial incentives
- Reprioritizing state funding would reduce resources available for other needs
- Developing a set of well-researched, professional sound, and locally acceptable best practice standards would be challenging

To what extent will the policy:

How does the policy balance the trade-offs between:



Governance: Mandatory Good Planning Practices

CTED, RTPOs, local governments and WSDOT must all be involved in implementing any new transportation planning requirements under the GMA. Their level of involvement would vary depending on whether the policy is implemented through an addition to the existing GMA planning requirements, clarification of RTPO certification requirements, or addition of new WSDOT certification requirements. Each option implies a different level of state versus local involvement and control.

Like local incentives, mandatory planning practices require the same investment in stakeholder outreach to ensure a set of well-researched, professionally sound and locally acceptable planning and access control standards. This process could take up to one year and involve costs ranging from $100,000 to $150,000. This policy option, however, goes further than local incentives in ensuring state transportation resources are protected from local land use impacts because of its regulatory approach.

The disadvantage of this policy is its implementation cost to local governments. These costs are unknown but could be substantial. Depending on implementation, RTPOs and WSDOT might also incur substantial costs in implementing new certification guidelines.

MANDATORY GOOD PLANNING PRACTICES

Who: CTED, RTPOs, Local Governments, WSDOT

What: Require local governments to adhere to best practices in planning and access control

Why: To ensure the protection of the capacity and safety of the state highway and ferry systems

How: Require better planning for state-owned transportation facilities in local comprehensive plans (including the transportation, land use, and capital facilities elements) by:

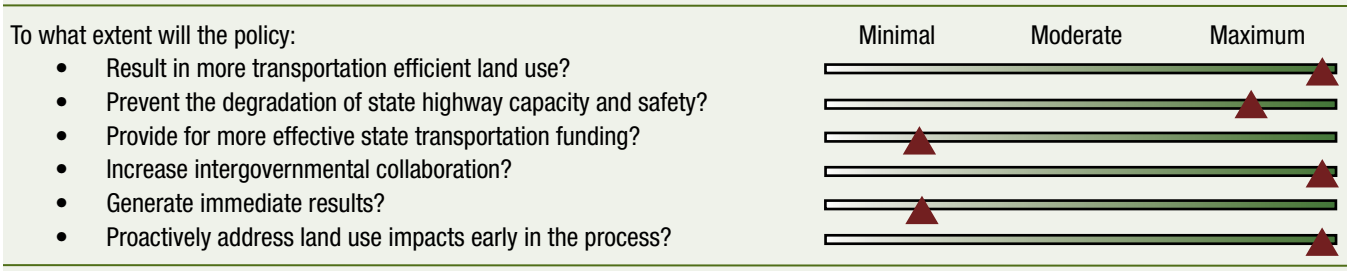
- Requiring confirmation from local agencies that they have adopted standards for access permitting on streets designated as state highways which meet or exceed WSDOT standards
- Amending the local planning requirements of the GMA
- Clarifying the Regional Transportation Planning Organization certification requirements, or
- Adding new WSDOT certification requirements

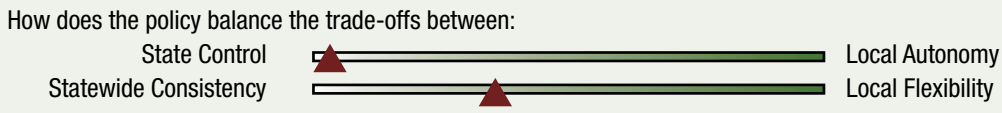
Pros:

- Ensures state transportation resources are protected

Cons:

- Reduces local flexibility and autonomy in land use planning and access management
- Existing enforcement mechanisms are weak
- Results not immediate due to seven-year comprehensive plan update cycles





Governance: Concurrency Expansion to State Highways and Ferry Routes

Expanding concurrency to state highways and ferry routes involves substantial changes to local, regional and state transportation planning and land use practices. The policy would ensure the adopted level of service (LOS) standards for state highways and ferry routes are maintained, while allowing local governments some flexibility in determining how to maintain them. Local governments could deny developments that cause the LOS to decrease below the standard, change the phasing or timing of new development, provide transportation improvements on the state highway or local street network to accommodate the development, or better manage demand for state highway trips through multimodal strategies.

Expanding the GMA concurrency requirement to state highways and ferry routes requires legislative action. A number of options for crafting a new concurrency policy exist and the impacts would vary based on the option selected. The GMA could be amended to require concurrency for all state highway and ferry routes, or for some state highways and ferry routes. Some highways and ferry routes are minimally impacted by local land use decisions because they are primarily used by through-traffic on long trips between regions or major population centers. As long as that function is maintained, there is a strong argument for exempting these facilities (classified as highways of statewide significance) from the concurrency requirement. Alternatively, the GMA could be amended to require local governments to participate in a regional concurrency system which would leave the decision of which state facilities to include a matter of regional discretion.

Another policy choice related to the expansion of concurrency to state transportation facilities is who would set the standard and control the funding resources for making capacity improvements. If concurrency is expanded to state highways and ferry routes, and local or regional governments do not have control over setting LOS standards, they would not have the option of accepting congestion by lowering or managing the standard. This distinction is important because improving transportation facilities is not always practical and accepting congestion by lowering or managing LOS standards is a common local practice, and can be an appropriate way to encourage the use of alternative transportation modes. Also, if concurrency is expanded to state transportation facilities and local or regional governments do not have access to adequate funding for capacity improvements, development moratoriums or sprawl may result. Interestingly, the 1995 study recommending exempting highways of statewide significance from the concurrency requirement actually suggested implementing concurrency for the balance of the state transportation system, provided new revenues were made available to regions for funding capacity improvements.[2]

The establishment of an equitable concurrency system that applies to state highways and ferry routes could be legally and technically challenging as well as expensive. Expanding concurrency to state highways and ferry routes would require

2. Berk & Associates, Inc., Henderson, Young & Company, JHK & Associates, Inc., Molyneaux Associates, Inc., and Porter & Associates, Inc. Study of the Relationship Between State-Owned Or Operated Transportation Facilities and Local Comprehensive Plans: Final Report. Prepared for the Washington State Legislature Legislative Transportation Committee. February, 1995.

the revision of existing traffic models at a substantial cost to local and regional governments. It would also require ongoing staff support. For example, the Spokane Regional Transportation Council recently estimated it would require five to eight full-time employees to implement a regional concurrency system.[3] Multiply this by the 14 RTPOs, add the cost of developer appeals, and it is clear this policy would involve significant expense.

The fact that some cities and counties have agreed to or are considering the implementation of regional concurrency systems despite these expenses demonstrates that expanding concurrency to address regional impacts does have value to some local governments. As an alternative to amending the law to require concurrency for state-owned facilities, the state could provide incentives for local governments to participate in regional concurrency systems by helping to fund their implementation.

CONCURRENCY EXPANSION TO STATE HIGHWAYS AND FERRY ROUTES

Who: WSDOT, RTPOs, Local Governments

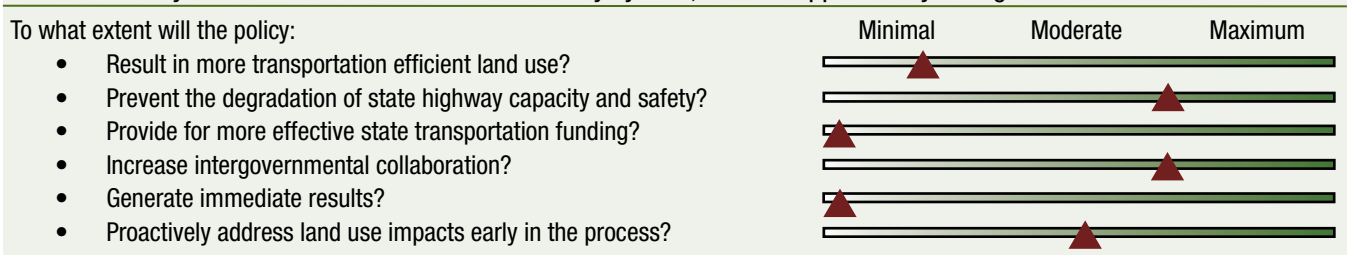
What: Expand the GMA transportation concurrency requirement to state-owned highways and ferry routes

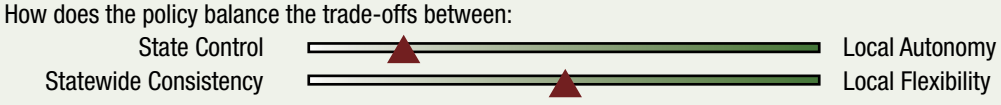
Why: To ensure that the state highways and ferry routes necessary to support development are adequate to serve the development at the time of occupancy and use without decreasing levels of service (LOS) below the adopted standards of the state or region

How:
- Amend the GMA to require local governments to deny development if it causes the LOS on state-owned highways or ferry routes to fall below the adopted standard (may apply to HSS and/or non-HSS)
- Amend the GMA to require local governments to participate in a regional concurrency system that includes state-owned highways and ferry routes (may apply to HSS and/or non-HSS)

Pros:
- Requires local governments to maintain LOS standards while allowing them some flexibility

Cons:
- Local governments may not have the option of reducing LOS standards (accepting congestion)
- May result in moratoriums due to limited transportation funding or sprawl to avoid congested corridors
- Adding an additional step for development approval may increase permit processing times
- Implementation would be expensive for local governments
- Penalizes communities with high levels of pass-through traffic beyond their control
- May lead to prioritization of avoiding traffic congestion above other state policy goals
- Very difficult to establish a fair concurrency system, costs of appeals may be high





3 "Concurrency: How's That Working for You? A Regional Context," Ed Hayes, Power Point Presentation to the American Planning Association Fall Conference, Yakima, Washington, October, 2006.

Funding Policy Options

State law provides a number of tools for charging fees or assessing mitigation to developers in order to fund improvements needed because of the impacts of new development. These tools are tailored for the use of local governments whose implementation practices vary widely. Mitigation required through the State Environmental Policy Act, the mechanism most often used to mitigate development impacts on state facilities, can be costly to assess, tends to focus resources toward short-term and small-impact projects, and relies on local agencies to condition development approval on WSDOT mitigation requests. The other mitigation and impact fee tools available under state law either cannot be used for state facilities or are infrequently used for that purpose. These gaps diminish the ability of the state to secure sufficient funding for state highway and ferry route improvements needed because of growth.

Four of the five funding policy options considered by this analysis would alter existing mitigation practices through administrative policy or statutory amendment. The other funding policy option would create a new system for assessing and collecting developer charges to fund transportation capacity and safety improvements on state highways and ferry routes needed because of growth.

None of these policy options would by themselves provide sufficient funding to address the state's overall $37.68 billion unfunded transportation needs,[4] but combined with other transportation funding strategies, such as tolling or taxes, these five funding policies would provide at least a portion of the funding needed for growth-related transportation improvements.

Funding: WSDOT Review of Development Proposals

Improving WSDOT development review processes would build on the existing SEPA framework by devoting additional staffing to the review of development proposals and the establishment of intergovernmental agreements with local governments for the collection of state requested mitigation. To support this work, WSDOT could work with local government to identify and meet standards for the types of development proposals that should be submitted to WSDOT for review. In order to promote more consistent state review of development proposals and assessment of mitigation, WSDOT could also build on the existing development services manual by establishing more detailed standards for the review of proposals, including requirements for private traffic analyses. In the course of developing these standards, WSDOT should consider discounting its mitigation requests for developments in dense urban areas with adequate local street networks and good multimodal transportation options to discourage sprawl. WSDOT could also engage in more consistent tracking, reporting, and follow-up on local government responses to mitigation requests in order to more effectively understand and improve its business processes. WSDOT is taking steps to improve its data collection by developing software to track mitigation collection statewide.

Improving development review processes would allow the state to more effectively fund growth-related transportation capacity and safety improvements. Any improvement efforts should begin with a thorough assessment of current practices and the development of a strategy for improving review processes. The implementation strategy may involve the reprioritization of existing resources

4. The Washington Transportation Plan, 2007-2026. Washington State Transportation Commission and Washington State Department of Transportation. November 14, 2006.

and would also likely result in a recommendation for investing in additional staffing. The exact level of staffing should be determined as part of the implementation strategy. However, as an example, adding 13.5 development services staff statewide would cost approximately $1.7 million (FY 08). Costs for additional staffing could be alleviated by specifically authorizing WSDOT to recoup its review expenses through fees charged to developers.

Relying on better development review processes to more effectively fund growth-related transportation system improvements has some disadvantages. Under current law, local governments are the lead agencies for land use actions within their boundaries and hold sole responsibility for the conditioning of land use actions on development mitigation. Any agency, including WSDOT, can inform local governments of the impacts of a land use action and request mitigation, but cities and counties are the ultimate decision makers. Local governments may choose to reduce or disregard the mitigation requested by the state. Consequently, the SEPA mitigation process often becomes a process of negotiation with local governments and developers. Negotiating mitigation on a project-by-project basis can be very time consuming and is often cost effective only for larger developments.

WSDOT REVIEW OF DEVELOPMENT PROPOSALS

Who: WSDOT

What: Improve WSDOT development review processes

Why: To more consistently and fairly assess developments for their impacts on state highways and ferry routes and more effectively fund transportation capacity and safety improvements needed because of growth

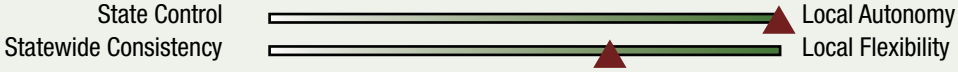
How:
- Devote additional staffing to the review of development proposals and to the development of intergovernmental agreements with local governments for mitigation collection
- Build on the existing development services manual by establishing more detailed standards for the review of development proposals (including requirements for private traffic analyses) and the assessment of appropriate mitigation
- Establish standards for when local governments should submit development proposals to WSDOT for review and work with local governments to ensure they are implemented
- More consistently track, report, and follow-up on local government responses to mitigation requests

Pros:
- Builds on existing SEPA framework

Cons:
- Local governments may disregard mitigation requests
- Only cost-effective to collect mitigation from larger developments
- Mitigation is generally less predictable for private sector than impact fees
- Transportation projects funded through mitigation tend to be smaller project-related fixes
- Total amount collected does not approach unfunded transportation system needs

To what extent will the policy:

How does the policy balance the trade-offs between:



Also, because local SEPA policies vary from jurisdiction to jurisdiction, SEPA mitigation is an unpredictable process for WSDOT and for private developers. Executing intergovernmental agreements with local jurisdictions could increase the predictability of the SEPA mitigation process.

Another disadvantage of relying on SEPA mitigation is that the types of state highway and ferry route improvements that can be funded is limited by statute. Mitigation conditions must be "reasonable" and "capable of being accomplished."[5] These standards are much easier to meet if the state requests mitigation for smaller project-related fixes instead of area-wide improvements and as a result, these are the types of projects that get funded. Because of all these limitations, even if WSDOT took maximum advantage of existing mitigation opportunities, the amount collected would not be sufficient to fund the transportation improvements needed because of growth.

Funding: Mandatory Local Enforcement of State-Requested Mitigation

This policy concept would address one of the weaknesses of relying on improved WSDOT development review by requiring local governments to condition development approvals on WSDOT mitigation requests. The requirement could be crafted to charge local governments with collecting and remitting mitigation fees to WSDOT or otherwise enforcing WSDOT mitigation requests. Or the policy could direct local governments to condition development approvals on WSDOT's mitigation request; requiring the developer to enter into an agreement with WSDOT to satisfy the condition of approval. Either way, this policy option would require an amendment to the State Environmental Policy Act.

While this policy concept would significantly improve WSDOT's ability to effectively fund transportation capacity and system improvements needed because of growth; many of the other limitations of SEPA would still exist. SEPA mitigation still tends to fund smaller project-related fixes instead of area-wide improvements, and mitigation funds would only provide a relatively small part of the transportation improvement funding actually needed. Again, in order to reduce the incentives for sprawl, WSDOT should consider discounting its mitigation requests for developments in dense urban areas with adequate local street networks and good multimodal transportation options.

Perhaps the biggest impact of requiring local governments to condition development approvals on WSDOT mitigation requests would be the fundamental alteration of the nature of the SEPA process. SEPA would no longer require the state's mitigation requests to be balanced with other SEPA-identified impacts. Also, the accountability structure of SEPA would change. It is unclear whether the state or local governments would bear the legal liability for appeals of the development conditions imposed to mitigate impacts on state facilities. And it is important to emphasize that this policy would give the state a much more direct role in local land use decisions and reduce local autonomy. This policy would, however, allow more local flexibility than the impact fee policy options described later because SEPA mitigation addresses impacts on a project-by-project basis.

In order to implement this policy effectively, WSDOT would likely require additional staffing due to a higher volume of development proposals to review and assess. This need may be somewhat alleviated by the increased certainty in the process which would reduce the time spent negotiating mitigation requests

5 RCW 43.21C.060

with local governments and developers. The exact level of staffing is unknown. However, as an example, increasing WSDOT Development Services staffing by 54% by adding 13.5 FTE would cost approximately $1.7 million (FY 08). The net cost of new staffing could be reduced by specifically authorizing WSDOT to recoup its review expenses through fees charged to developers. The resources required for this policy option should also include the substantial legal costs that should be anticipated at start-up to address developer appeals.

MANDATORY LOCAL ENFORCEMENT OF STATE-REQUESTED MITIGATION

Who: WSDOT, Local Governments

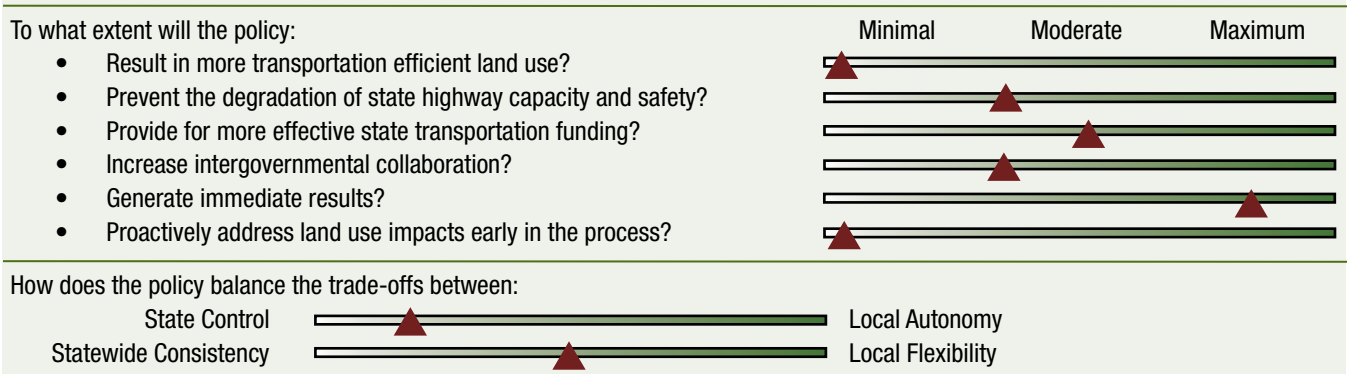
What: Require local governments to condition development approvals on WSDOT mitigation requests

Why: To more consistently and fairly collect development mitigation and more effectively fund transportation capacity and system improvements needed because of growth

How: Amend the State Environmental Policy Act

Pros:
- More consistent and predictable state mitigation collection for growth-related transportation needs

Cons:
- Local governments may be subject to more frequent appeals which are costly
- May not require the state's mitigation requests to be balanced with other SEPA identified impacts
- Only cost-effective to collect mitigation for larger developments
- Mitigation is generally less predictable for private sector than impact fees
- Transportation projects funded through mitigation tend to be smaller project-related fixes
- Total amount collected does not approach the unfunded transportation system needs



Funding: Mandatory Local Assessment of State Impact Fees

Compared to the mitigation policy options, requiring local governments to assess impact fees for improvements to state-owned highways and ferry routes would provide for a more predictable revenue stream for WSDOT and a more predictable fee structure for private developers. This policy option could be implemented through amendments to the GMA Impact Fee statutes, the Local Transportation Act (LTA), and/or the Transportation Benefit District Act. The requirement could be crafted to charge local governments with assessing, collecting and remitting impact fees to WSDOT, or local governments could be directed to condition development approvals on a state impact fee. The primary advantage of impact fees is their ability to be used for area-wide improvements.

The biggest disadvantage of collecting impact fees for state transportation facilities is the up-front cost of setting up a fair fee schedule. The technical difficulty of setting up an impact fee system cannot be understated. It would require

changes to the state's traffic modeling systems, the careful establishment of impact zones, and the programming of transportation improvements that meet the statutory requirements of the impact fee statutes. For example, transportation improvements funded by LTA impact fees must be reasonably necessary as a direct result of proposed developments and capable of being carried out. And transportation improvements funded by GMA impact fees must be reasonably related to and reasonably beneficial to new development. When establishing an impact fee schedule, careful attention should be given to the effect of the fees on developer location decisions. In order to encourage transportation efficient land use practices, fee waivers or discounts could be provided in dense urban areas with adequate local street networks and multimodal transportation options. The set-up costs of a state impact fee system would be substantial and the cost of developer appeals should be anticipated, especially upon the initial establishment of the system. However, the ongoing costs associated with implementing this policy option would likely be somewhat lower than the mitigation policy options because impact fees do not require individualized assessments of each development's direct impacts.

MANDATORY LOCAL ASSESSMENT OF STATE IMPACT FEES

Who: WSDOT, Local Governments

What: Require local governments to assess impact fees for improvements to state-owned highways and ferry routes

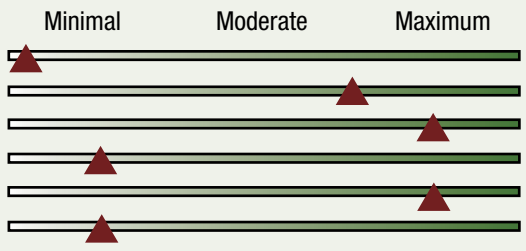
Why: To more predictably assess development for growth impacts and more effectively fund state highway and ferry route capacity and safety improvements needed because of growth

How: Amend the Growth Management Act section on impact fees, the Local Transportation Act (LTA), and/or the Transportation Benefit District Act (TBD)

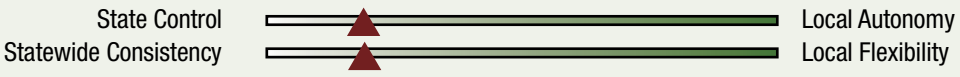
Pros:
- Impact fees more predictable than mitigation
- Collecting impact fees for improvements to state-owned highways and ferry routes would create a more consistent revenue stream
- Impact fees are generally more useful for funding area-wide system improvements
- Unlike mitigation, impact fees do not require individualized assessments of a project's direct impact
- May be designed to incentivize transportation efficient land use practices through waivers or discounts

Cons:
- Setting up a fair impact fee system is technically challenging and may be costly if frequently appealed
- Existing time limitations for expenditure may preclude the use of impact fees for some state transportation projects
- Using existing impact fee tools may result in the inability to collect fees in some cities or counties that are ineligible for or have chosen not to use fees
- Total amount collected would not approach unfunded transportation system needs

To what extent will the policy:



How does the policy balance the trade-offs between:



The difficulty of establishing state impact fees for transportation is illustrated by the recent experience of the State of Delaware. State transportation impact fees were authorized in 2001 as part of the Governor's "Livable Delaware" land use package; but were never implemented because the fees were complicated to assess and wouldn't raise sufficient revenues. Any legislative changes regarding state impact fees should be carefully studied for both legal and practical implications.

There are other potential disadvantages of requiring local governments to assess impact fees for state transportation facilities. Existing time limitations for the expenditure of funds might preclude the use of impact fees for longer-term state transportation projects. Also, the state may not be able to receive impact fees in cities or counties that are ineligible for or have chosen not to use impact fees. Like all the funding policy options, the collection of impact fees will only provide an incremental improvement in meeting the state's unfunded transportation needs.

Requiring local governments to assess impact fees for state transportation facilities would give the state a much more direct role in local land use decisions at the expense of local autonomy. Additionally, impact fees would not allow as much local flexibility as mitigation policies because fees are applied within zones instead of being assessed for each individual development project.

Funding: State Assesses and Collects Mitigation

Authorizing WSDOT to independently assess and collect mitigation directly from the developer would remove local governments from the mitigation collection process for state transportation facilities. This policy concept would relieve local governments from the responsibility and potential liability of imposing development conditions on behalf of the state. And because it allows more state control of the process, it would likely result in more consistent and predictable funding of state transportation improvements needed because of growth. State-collected mitigation would also provide more local flexibility than state impact fees because SEPA mitigation addresses impacts on a project-by-project basis.

However, the amendment of SEPA to allow WSDOT to enforce mitigation for development impacts on state transportation facilities would insert the state into the domain of local land use decisions and alter the nature of the SEPA process. State SEPA mitigation requests would no longer be considered in a broader context that considers and balances all the potential impacts of a government action.

In addition, all the other limitations of SEPA would still exist. SEPA mitigation still tends to fund smaller project-related fixes instead of area-wide improvements and mitigation funds would only provide a relatively small part of the transportation improvement funding actually needed. Also, because the impacts of a development are likely to be greater in dense urban areas resulting in the potential for more costly mitigation, developers might choose to locate in less urban areas which could result in sprawl. To avoid sprawl, mitigation fees could be discounted in dense urban areas with adequate local street networks and good multimodal transportation options.

To implement this policy effectively, WSDOT would require additional staffing due to a higher volume of development proposals to review and assess. The exact level of staffing would need to be determined and should account for the greater certainty in the mitigation process and the removal of local governments from the

mitigation process. However, as an example, increasing WSDOT Development Services staffing by 54% through the addition of 13.5 FTE would cost approximately $1.7 million (FY 08). Staffing costs could be recouped to some degree by specifically authorizing WSDOT to charge its review expenses to developers. The resources required for this policy should also include legal costs associated with developer appeals. This cost is unknown but could be significant.

STATE ASSESSES AND COLLECTS MITIGATION

Who: WSDOT

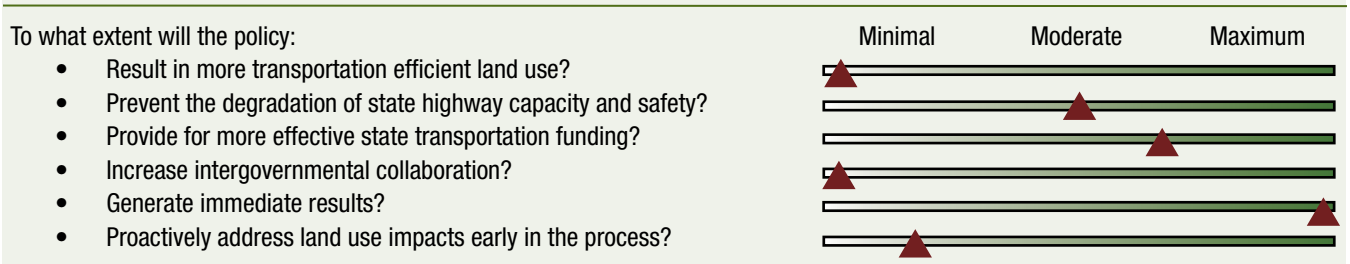
What: Authorize WSDOT to independently assess and collect mitigation directly from the developer

Why: To more consistently and fairly collect mitigation and more effectively fund transportation capacity and safety improvements needed because of growth

How: Amend the State Environmental Policy Act

Pros:
- Relieves local governments of the responsibility for assessing mitigation on behalf of the state
- More consistent and predictable state mitigation for growth-related transportation needs

Cons:
- State mitigation assessments would not be considered in the broader SEPA context that considers and balances all potential impacts
- Only cost-effective to collect mitigation for larger developments
- Mitigation is generally less predictable for private sector than impact fees
- Transportation projects funded through mitigation tend to be smaller project-related fixes
- Total amount collected does not approach the unfunded transportation system needs



Funding: System Charges

To avoid the limitations of existing mitigation and impact fees rules, new legislation could be crafted to establish and collect regional system charges specifically for area-wide state highway and ferry route improvements needed because of growth. System charges could be implemented at the state or regional level. Regional implementation would allow more local flexibility. System charges would provide a more predictable and consistent statewide revenue stream for regional improvements. State or regional system charges would also relieve individual local governments of the responsibility and liability of imposing mitigation for transportation improvements that have regional and/or statewide benefits.

The imposition of system charges is a policy concept that requires careful study and planning. The technical difficulty and cost of setting up fair system charges are substantial. It would require changes to the state's traffic modeling systems,

the careful establishment of fee schedules, and the programming of transportation improvements that would be funded by system charges. To encourage transportation efficient land use practices, fee waivers or discounts should be considered for developments locating in dense urban areas with adequate local street networks and multimodal transportation options. Any proposed legislation should be carefully reviewed for both legal and practical implications. The cost of setting up a regional system charge is unknown but substantial.

Once established, the implementation of system charges would require ongoing staffing by either WSDOT or RTPOs. System charges would not require individualized assessments of each development's direct impacts, but it would require administrative staffing for the assessment and collection of fees as well as ongoing traffic analysis, planning and management to ensure the system charge fee structure is fairly assessing developments and accountability for providing the transportation improvements is funded by the charges.

System charges might reduce the need for state SEPA mitigation review and assessment to some extent. WSDOT would still require staffing to address specific development impacts that cannot be anticipated in the crafting of an impact fee. To prevent the payment of fees for the same impact, system charge legislation should prevent the collection of fees or mitigation for the same impact.

SYSTEM CHARGES

Who: WSDOT or RTPOs

What: Amend state law as appropriate to allow the state or regional transportation planning organizations to establish and collect regional system charges directly from the developer

Why: To more predictably assess development for growth impacts and more effectively fund regional capacity and safety improvements on state-owned highways and ferry routes needed because of growth

How: Enact new legislation

Pros:
- More predictable than mitigation
- Would create a more consistent statewide revenue system for regional improvements
- Would not require individualized assessments of a project's direct impacts
- May be designed to incentivize transportation efficient land use practices through waivers or discounts
- Regional implementation would allow more local flexibility

Cons:
- Setting up a fair fee system is technically challenging and may be costly if frequently appealed
- Total amount collected would not approach unfunded transportation system needs

To what extent will the policy:

How does the policy balance the trade-offs between:

System charges would improve the ability of the state to collect funds to mitigate the adverse impacts of local developments on the state transportation system, but they are not the final solution for funding growth-related state transportation improvements. To provide an effective solution to address the state's unfunded transportation system needs, the legislature should consider system charges as one piece in the funding puzzle that might also include the implementation of recent policy recommendations on tolling,[6] increased taxes, and more aggressive demand management.

Conclusions

Any one of the policy concepts described in this analysis could improve the ability of the state to address the adverse impacts of local land use decisions on state transportation facilities. Alternatively, a number of planning, funding and governance policy options could be grouped to form a more comprehensive strategy for addressing the gaps that exist in current law and practice.

Several policy concepts, including Technical Assistance, WSDOT Review of Local Comprehensive Plans, and WSDOT Review of Development Proposals require minor administrative changes and a relatively small level of additional resources to implement. Local Incentives and Mandatory Good Planning Practices involve relatively minor amendments to state law and a relatively small level of additional resources to implement. The remaining funding policy concepts involve more significant changes to state law and a more substantial investment of resources. These policy options require additional legal and technical review.

The expansion of concurrency to state highways and ferry routes would involve a significant change to existing law and a substantial investment of mostly local and regional resources. While the policy has merit as an effective way to prevent the degradation of state highway capacity and safety, it might not be the most cost-effective method of achieving that goal. Concurrency works best when the government that makes the decision to allow or deny development also controls the establishment of the performance standard (level of service) and the resources to fund capacity improvements. A policy that divides these authorities between governments is not optimal because it divides accountability. Alternatively, the legislature could consider providing incentives for local governments to participate in regional concurrency systems that include state facilities and establishing funding mechanisms regional governments can use for growth-related transportation improvements.

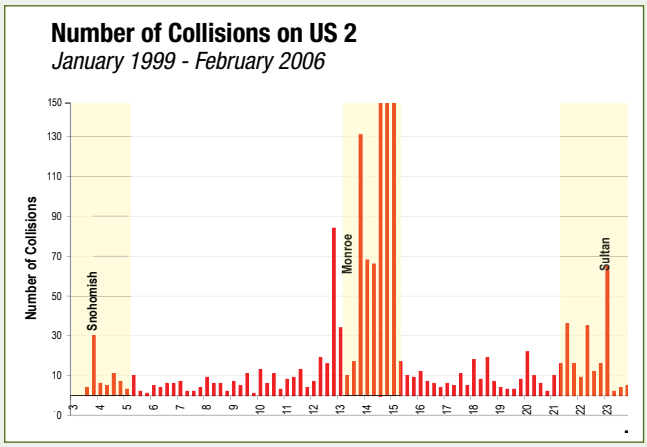
6. Cambridge Systematics, Inc. Washington State Comprehensive Tolling Study Final Report. Prepared for the Washington State Transportation Commission. September 11, 2006.

US 2 in Monroe

In November 2005, the Washington State Department of Transportation (WSDOT) initiated a $1.3 million Route Development Plan to address safety and mobility concerns on US 2 from Snohomish to Skykomish. US 2 is an east-west highway that provides one of three connections between Western and Eastern Washington open throughout the year.

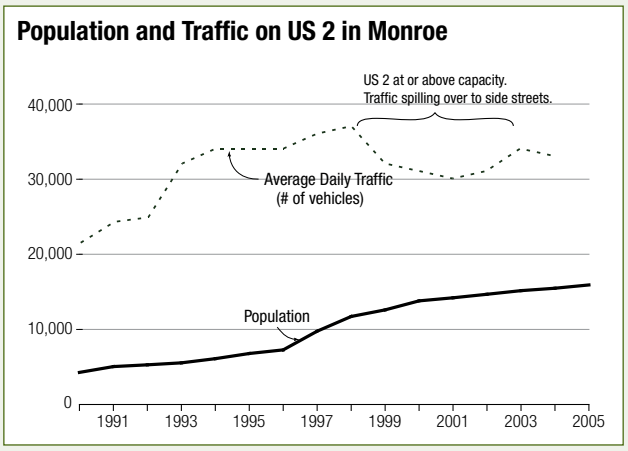
More than 2,500 collisions, including 34 fatalities, occurred within the study area between 1999 and March, 2006, despite WSDOT investments of $36 million in the maintenance and preservation of the roadway.

The number of collisions is especially dramatic in the City of Monroe, located at the intersection of US 2 and State Route 522 (a major commuting route to the Central Puget Sound urban area). From 1999 to 2005, 1,110 collisions, including five fatalities, occurred on US 2 in Monroe. The collision rate for this highway segment is four times higher than the statewide average (4.53 collisions per vehicle mile compared to 1.11 statewide average).



Source: WSDOT NW Region Traffic Office

US 2 travelers have also experienced increasing congestion. Since 1991, average daily traffic increased more than 54 percent, resulting in traffic diversion onto local roadways and even through parking lots to avoid congestion.

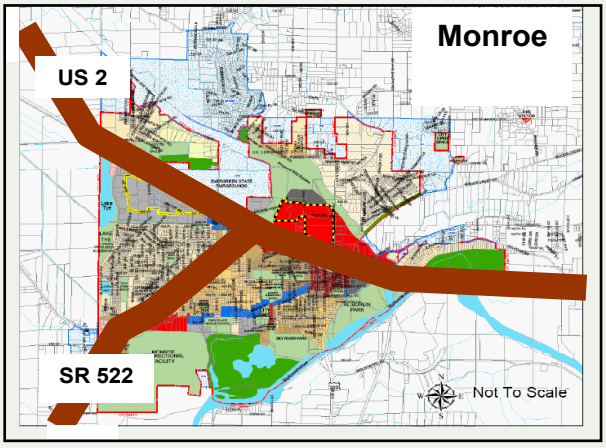


Source: WSDOT NW Region Traffic Office and Office of Financial Management

The Gaps

Many factors contributed to traffic problems on US 2 in Monroe. Monroe's population has grown rapidly, almost quadrupling from 4,200 in 1990 to 16,000 today.

The Monroe segment of US 2 is lined with urban development, including multiple stoplights and access points restricting traffic flow. Existing access points are only 50 feet apart in some areas east of SR 522, far less than the 660 feet minimum access spacing required under current standards.



Source: City of Monroe

Monroe's land use decisions, including the state's role in participating in those decisions, also may have contributed to problems on US 2. For example, Monroe completed its seven-year comprehensive plan update in 2005, proposing the expansion of its urban growth boundary to add 285 acres for residential development. Despite the evident

impact of US 2 traffic conditions on the function of the city's local street network and the safety and mobility of its citizens, Monroe did not address the effect of this expansion on US 2. Likewise, during the review process, neither WSDOT, nor the Community Trade and Economic Development Department, nor the Puget Sound Regional Council commented on the impact of expanding the urban growth boundary on US 2. Because US 2 in Monroe is statutorily exempt from concurrency, once the city's comprehensive plan allowing additional development was approved, there was no additional mechanism for stopping new development from continuing to degrade the function of US 2.

To the city's credit, Monroe has worked collaboratively with WSDOT to mitigate the impact of developments on US 2. Since 2000, WSDOT has collected $239 per average daily trip from developments that exceed the threshold requirements for a potential US 2 bypass. The $299,820 collected by WSDOT accounts for 31% of all traffic mitigation fees collected in Monroe, but amounts to only 0.2% of the $100 million estimated cost for a US 2 bypass.

The Policy Concepts Applied

Planning. WSDOT expert advice and analysis could have provided better information about the impact of an urban growth boundary expansion on US 2. Even if this did not result in a different outcome, at least the information would have been included in the record increasing public awareness and local accountability.

Funding. Better analytical methods for assessing development impacts and the ability to directly collect mitigation or impact fees might have resulted in better funding for incremental safety and mobility improvements to US 2. However, it is highly unlikely that it could have made a significant enough contribution to the cost of a potential US 2 bypass to make it a feasible project without additional funding sources.

Governance. Because Monroe is seeking funding for a US 2 bypass, funding or grant incentives would likely have been a strong motivator for adhering to best practice planning, mitigation, and access control standards. The expansion of concurrency to apply to US 2 might have slowed growth or spread development further out along the highway to avoid congested intersections.